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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Aloys Wobben

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EXAMINER

WHITE, DWAYNE J

ART UNIT

PAPER NUMBER

3745

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/516,570	<b>Applicant(s)</b> WOBBEN, ALOYS	
	<b>Examiner</b> DWAYNE J. WHITE	<b>Art Unit</b> 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-9,11 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-9,11 and 15-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 09 February 2009 have been fully considered but they are not persuasive. Claims 1-4, 6-9, 11, 15-19 are pending. The Examiner has noted that claim 17 and 18 does depend from claim 9 as indicated by Applicant. The Examiner regrets any inconvenience this may have caused Applicant in responding to the Office Action. In regards to the prior art Weitkamp and Boyer, Applicant argues that the 103(a) combination made would not have been obvious since both Weitkamp and Boyer disclose complete lifting systems. The Examiner respectfully disagrees with this assertion. The Examiner points out the completeness of the inventions disclosed in the prior art has no bearing on rejections made in the previous Office Action. Particularly, the prior art in a 103(a) situation provides teaches showing the state of the art at the time the invention was made. In the instant application, Boyer clearly shows that providing a winch on a vehicle is already known in the lifting art and the Examiner is combining the known winch with a known use. This is the essence of obviousness and thus a proper 103(a) rejection. In regards to prior art Jackson, Applicant argues that Jackson would be incapable of lifting components of a wind turbine; however this is not the essences of the rejection made. Jackson clearly teaches that a winch can be transported on a vehicle, whether or not the vehicle can with stand the forces irrelevant since Applicant has not made any specific requirements for the vehicle other than it being a transport vehicle. Therefore, the Examiner has maintained all of the previously indicated rejections. In regards to Applicant's amendment to claim 16, "a crane separate from the pylon is not used to support the winch" is not support by the original

Art Unit: 3745

specification as filed and is therefore considered new matter. A rejection has been made to reflect this position.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weitkamp (EP-1 101934 A) in view of Boyer (6,494,437). Weitkamp discloses a wind power installation (“installation”) 10 comprising a pylon 14 having a pod 18; a winch 60; a base 12; at least one deflection roller 64 and at least one rope passage 50 in the region of the pylon head for passing through a hauling cable from the winch. Weitkamp further discloses a second cable passage means (See passage for cable 62) disposed above the pylon head and configured to raise and lower components of the installation within the pylon. The Examiner notes that the winch is also located within the pylon and the pylon is a hollow shaft. Weitkamp does not disclose the winch being located outside the pylon mounted on a transport vehicle.

Boyer teaches a winch being mounted on a transport vehicle. The Examiner also notes that Applicant states in the Background of the Invention that it is well known in the art to transport a winch to installation for raising and lowering components. Therefore, it is the position of the Examiner that it would have been obvious at the time the invention was made to one of ordinary skill in the art to provide the winch on a transport vehicle as taught by Boyer for

Art Unit: 3745

the purpose of installing components of a wind power installation. In regards to method claims 6 and 7 the combination of Weitkamp and Boyer as disclosed above would be inherently capable of performing the method as claimed.

Claims 1-4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weitkamp (EP-1101934 A) in view of Jackson (3,829,064). Weitkamp discloses a wind power installation ("installation") 10 comprising a pylon 14 having a pod 18; a winch 60; a base 12; at least one deflection roller 64 and at least one rope passage 50 in the region of the pylon head for passing through a hauling cable from the winch. Weitkamp further discloses a second cable passage means (See passage for cable 62) disposed above the pylon head and configured to raise and lower components of the installation within the pylon. The Examiner notes that the winch is also located within the pylon and the pylon is a hollow shaft. Weitkamp does not disclose the winch being located outside the pylon mounted on a transport vehicle.

Jackson teaches a winch system being mounted on a transport vehicle. The Examiner also notes that Applicant states in the Background of the Invention that it is well known in the art to transport a winch to installation for raising and lowering components. Therefore, it is the position of the Examiner that it would have been obvious at the time the invention was made to one of ordinary skill in the art to provide the winch on a transport vehicle as taught by Jackson for the purpose of installing components of a wind power installation. In regards to method claims 6 and 7 the combination of Weitkamp and Jackson as disclosed above would be inherently capable of performing the method as claimed.

Art Unit: 3745

Claims 8, 9, 11 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nickelsen (EP 1101936 A2) in view of Boyer (6,494,437). Nickelsen discloses a wind power installation comprising: a pylon (not labeled); a base; a pod (referred to as the nacelle); a winch 31; a cable guide 35; a blade opening 33; and a cable 32 coupled to the winch wherein the winch may be located within the rear of the housing. Nickelsen further shows in Figure 7 shows the cable 32 passes through the opening 34 in the pod and a second opening in the pod (the second opening being the opening for the blade which also acts as a second cable guide. Nickelsen does not disclose the winch being located outside the pylon mounted on a transport vehicle.

Boyer teaches a winch being mounted on a transport vehicle. The Examiner also notes that Applicant states in the Background of the Invention that it is well known in the art to transport a winch to installation for raising and lowering components. Therefore, it is the position of the Examiner that it would have been obvious at the time the invention was made to one of ordinary skill in the art to provide the winch on a transport vehicle as taught by Boyer for the purpose of installing components of a wind power installation. In regards to method claims 6 and 7 the combination of Nickelsen and Boyer as disclosed above would be inherently capable of performing the method as claimed.

In regards to claim 16, the Examiner notes that the host vehicle for the winch is not a crane.

Claims 8, 9, 11 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nickelsen (EP 1101936 A2) in view of Jackson (3,829,064). Nickelsen discloses a wind power installation comprising: a pylon (not labeled); a base; a pod (referred to as the nacelle); a winch 31; a cable guide 35; a blade opening 33; and a cable 32 coupled to the winch wherein the winch

Art Unit: 3745

may be located within the rear of the housing. Nickelsen further shows in Figure 7 shows the cable 32 passes through the opening 34 in the pod and a second opening in the pod (the second opening being the opening for the blade which also acts as second cable guide). Nickelsen does not disclose the winch being located outside the pylon mounted on a transport vehicle.

Jackson teaches a winch system being mounted on a transport vehicle that is not a crane. The Examiner also notes that Applicant states in the Background of the Invention that it is well known in the art to transport a winch to installation for raising and lowering components. Therefore, it is the position of the Examiner that it would have been obvious at the time the invention was made to one of ordinary skill in the art to provide the winch on a transport vehicle as taught by Jackson for the purpose of installing components of a wind power installation. In regards to method claims 6 and 7 the combination of Nickelsen and Jackson as disclosed above would be inherently capable of performing the method as claimed.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 16 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Art Unit: 3745

Specifically, the limitation of “a crane separate from the pylon is not used to support the winch” is not support by the original specification as filed and is therefore considered new matter.

## **CONCLUSION**

### ***Contact Information***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DWAYNE J. WHITE whose telephone number is (571)272-4825. The examiner can normally be reached on 7:00 am to 3:30 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3745

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dwayne J White/  
Examiner, Art Unit 3745

DJW

/Edward K. Look/  
Supervisory Patent Examiner, Art Unit 3745